

MEASURE PLACED ON
CALENDAR—S. 607

Mr. McCONNELL. Mr. President, I understand that S. 607 is at the desk and due for a second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time by title.

The senior assistant bill clerk read as follows:

A bill (S. 607) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Mr. McCONNELL. Mr. President, I object to further proceedings.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. Mr. President, I ask unanimous consent that I be recognized in morning business for a period of up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COVER THE UNINSURED WEEK

Mr. TALENT. Mr. President, this is "Cover the Uninsured Week" and there have been press events—and I guess you can call them rallies—around the country designed to inform America about the problem of the uninsured. I guess I am glad that is happening. It seems as though it happens a lot. We have been talking about the uninsured for a long time.

I think it is time we do something about the uninsured instead of just telling everybody that we have. And we can do that. I would suggest we are on the brink of doing it. We in the Senate just have to choose between the employees of the small businesses around the country, who are most of the uninsured, and the big insurance companies that have them under their thumb currently.

There are about 41 million uninsured people in the country at any given time. About 60 percent of those uninsured people are either owners of small businesses or employees of small businesses, or dependents of somebody who owns or works for a small business. Most of the people who are uninsured are working people. The reason they are uninsured and the reason they are not getting health insurance through their small business is that the small businesspeople are caught. They are stuck on a dysfunctional market. They are caught because all they bring to that market is a unit of 4 or 5 people, or maybe 20 or 30, or maybe 60 or 70.

And they have very few choices. They consistently pay higher costs for health insurance premiums, and they get lower quality insurance than people who work for big businesses or people who work for the Federal Government, as we do.

I have seen this all over the State of Missouri and, indeed, all over the country. I chaired the Small Business Committee for two terms in the House. In that capacity and since then, I have visited personally with hundreds and hundreds of small businesspeople and with thousands of their employees. This is their No. 1 issue. It is not fair for them to be laboring under impediments that the rest of us do not have.

I was in Farmington, MO, over the weekend. I stopped by an optometrist's office run by a couple of optometrists, and a couple of their employees were there. They gathered around and told me a very familiar story. In 1999—I think it was—they said, we just felt we had to start providing health insurance to our people, as expensive as it was and as difficult as it was.

They had to spend hours and hours soliciting bids, maneuvering, and trying to get insurance for their people. So they started it.

They said: When we started, it was a little over \$200 a month per employee. Now, 4 years later, it is over \$500 a month per employee.

They are not able to give wage increases to their people because health insurance costs are increasing so fast.

Everywhere I go, small business health insurance costs are going up 20 or 25 percent a year.

There is a further human side to this story. One of their employees—a really neat lady—I talked with for a while. She is a single mom and a cancer survivor. She is trapped, and the small business is trapped with her, because if they drop the insurance, she will never get reinsured anyplace else. They feel a moral obligation to continue that insurance for her. The other employees are doing without wage increases and dealing with substandard insurance in order to help their fellow employee.

I have seen this story over and over again. And it is not necessary. We can do something about it, and we need to.

Here is what we can do.

The House passed several times in the 1990s—and the President now supports the plan—a plan that would simply allow small businesses to pool through their national trade associations or their professional associations and get health insurance on the same terms and under the same regulatory apparatus as the big businesses, the unions, and the Government currently do.

That is all we need to do, just empower the small businesspeople. It will not cost the taxpayers a dime because it is not a Government program. It is just allowing people to do what is already happening all over the United States.

So here is how it would work: Let's say the National Restaurant Associa-

tion would sponsor national health insurance plans. They would start an employee benefit side, just like the big companies do. They would contract with national insurance companies. They would have a self-insured side. And then, if you are a restaurant employee, by joining the restaurant association, you would automatically be entitled to get this insurance. They would have to offer it to you. They could not tell you you could not have it. And you would be part of a pool of 20,000 or 30,000 people instead of in a unit by yourself with two or three or five or ten people, like my brother's situation. He has a little tavern kind of restaurant in St. Louis. Actually, it may be more of a saloon. But, in any event, he could join the National Restaurant Association to get coverage. It is just him and my sister-in-law who run this place. Apart from the money, which is impossible for him, he does not have the time and does not want to incur the risk of going out two or three times a year and soliciting bids.

And then, all of a sudden, what often happens to small businesspeople is they get called up because somebody actually filed a claim. The big insurance company tells them their rates went up astronomically. They have no power in this market. They are caught with few choices, with small groups, with high administrative costs. It is not necessary, and it does not even cost anything for us to fix it.

I was talking about this at a dinner the other day with six or seven people who were there to talk about how we could serve the underserved better with health care. This is part of the answer to it. We had a real good dialog with these folks. Many of them are operating a charitable enterprise where they are helping people get health care.

I laid this out for them, and one of the men said to me: Well, who wouldn't support that? Indeed, who wouldn't support it? I will tell you who doesn't support it: the big insurance companies, who control this small group market now. They are operating like monopolists. Monopolists ratchet down their output and raise their prices. That is what is happening. Fewer and fewer people are covered, and prices are going higher and higher. They are making money, and people around this country do not have health insurance. It is wrong, and it ought to stop.

One argument I hear about this is: Look, if we do this, the association health plans will engage in cherry-picking. What that means is, the healthy small business groups will go into the big plans, the sicker small business groups will prefer to stay out there in the small business market. This is actually an argument that the big insurance companies are raising. It is the exact opposite of the truth.

Common sense tells you if you have a history of illness, if you have cancer or had cancer or diabetes or kidney problems, or something similar to that, and somebody says to you, look, you can be

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in a small group market, you can work for a small business and be part of a group of 4 or 5 people or 40 or 50 people, or you can work for a big business and be part of a group of 10,000 people, which would you choose?

I have asked that question in small business groups around the country. I have not had a single person say: If I were sick, I would rather be part of the small group. Of course you would rather be part of the bigger group.

This is a haven for small business people who want to help themselves and their employees, and particularly the ones who are sick and need the insurance, such as that lady in the optometrist shop in Farmington. It is a haven for them. And it will cut the cost of their health insurance, on average, 10 to 20 percent and make insurance available to millions of people who currently do not have it. It does not cost the taxpayers anything. It is just like a big co-op.

We have a lot of support in the Senate. I am very pleased about our progress. The chairman of the Small Business Committee, the senior Senator from Maine, Ms. SNOWE, is a strong supporter and is leading the fight. Senator BOND is supportive. The Senator who is presiding over the Senate today is supportive. Senator MCCAIN is supportive. I have been talking with a number of my friends and colleagues on the other side of the aisle. I am hoping to get support there.

In the House, it passed on a strong bipartisan basis. I believe we can do the same. It is just a question of the choices we want to make. We can choose these small businesspeople and their employees who have been telling us, year after year after year: We are working full time; We care about our jobs; We care about our fellow employees; Let us help ourselves, or we can choose the big insurance companies that have a monopoly on this market and are charging higher and higher prices and providing fewer and fewer policies of insurance for people who need it.

I think the choice is clear. I urge the Senate to look at this bill, the association health plans. We can get it passed. We can make a difference, and we can do it now.

I yield back the remainder of my time.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The time until 12:30 p.m. shall be equally divided between the chairman and the ranking member of the Judiciary Committee or their designees.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time run equally between both sides.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is on the Estrada nomination.

Mr. LEAHY. I thank the distinguished Presiding Officer.

SENATOR GRAHAM'S RETURN

I see the distinguished senior Senator from Florida in the Chamber. First, I will say on a personal basis, I am delighted to see him back. He is looking as healthy as he did before he left. I understand he is even more healthy now. For someone like myself who has probably a couple pounds more than I would like to be carrying, I noticed that he has found a way of losing a little weight. I suspect that what he has gone through is not something that is going to catch on with the various diet fads.

I had a chance to chat with the distinguished senior Senator last night, and he not only sounds even healthier than when he left, but he has the same sense of verve and sense of humor as he had before he left.

I yield to the distinguished Senator from Florida, if he would like to take the floor at this point, such time as he needs.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I extend to you and to my colleagues deep appreciation from me and my family for the many expressions of concern and best wishes which have flowed to us over the past 6 weeks. I report to the Senate that this is my second day back on the job since my operation. I feel increasingly strong and en-

ergetic, sufficiently so that I feel this is the time to come to the Senate floor and talk about the issue before us.

Before I do that, I especially extend my appreciation to the Republican leader and our colleague and friend, Senator BILL FRIST. As we know, before becoming a Senator, it was Dr. BILL FRIST. He happened to be a cardiac surgeon. When it was clear to me I was going to have to have cardiac surgery, and when that fact became known by a number of my friends, I had an almost mountain of suggestions as to what I should do, where I should go, who the surgeon should be.

Finally, my friend and former colleague, Connie Mack, called me and suggested I should talk to Senator FRIST, who actually knows something about this, which I did. He gave me excellent advice and a substantial amount of reassurance. Then after the operation, while I was still in the hospital, he came and visited. That was a touching moment for Adele and myself that he would make that effort.

I particularly thank Senator FRIST for his display of humanity during this period.

I am here to discuss my vote on the motion to invoke cloture on the nomination of Miguel Estrada to the District of Columbia Circuit Court of Appeals.

It will be my vote today to not invoke cloture. I want to explain the reasons for this. There are many issues raised by this nomination. I consider the most fundamental issue is the issue of the independence of the judiciary. That has been a matter of concern to thoughtful Americans from before our country was a country.

In the brilliant and Pulitzer Prize-winning book by David McCullough, "John Adams," John Adams is quoted from a paper he wrote called "Thoughts on Government." This was written before the War for Independence, anticipating that after a successful independence, there would be the need to establish a government. And these were some principles John Adams thought government should contain. Let me read one paragraph:

"Essential to the stability of government and to enable an impartial administration of justice," Adams stressed, "with separation of judicial power for both legislative and the executive, there must be an independent judiciary, men of experience on the laws, of exemplary morals, invincible patience, unruffled calmness, indefatigable application, and should be subservient to none and appointed for life."

Those were the characteristics John Adams laid out as crucial to the essential stability of government and to have an able and impartial administration of justice. Those words, written before the war, then became the guiding star for our Founding Fathers at the Constitutional Convention in 1787.

In order to preserve the political independence of judges, the Constitution provides they shall, as John Adams suggested they should, serve a lifetime appointment. In order to protect from economic intrusion into the